

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
NORTHWESTERN DIVISION**

Dr. Penny M. Wilkie,)	
)	
Plaintiff,)	
)	
vs.)	
)	
)	Case No. 4:07-cv-027
The Department of Health)	
and Human Services,)	
)	
Defendant.)	
<hr style="border: 0.5px solid black;"/>		
)	ORDER
Dr. Penny M. Wilkie,)	
)	
Plaintiff,)	
)	
vs.)	
)	Case No. 4:08-cv-100
)	
The Department of Health)	
and Human Services,)	
)	
Defendant.)	

On October 15, 2007, the Defendant filed a motion to dismiss in Case No. 4:07-cv-027. The court granted the motion as it pertained to Plaintiff's Title VII claim. See Case No. 4:07-cv-027, Docket No. 27. However, it denied the motion as it related to Plaintiff's tort and constitutional claims, and them abeyance pending a final decision from the Merit Systems Protection Board. See Case No. 4:07-cv-027, Docket No. 27.

On November 21, 2008, Plaintiff filed a complaint in a new action, Case No. 4:08-cv-100, that essentially mirrored the complaint filed in Case No. 4:07-cv-027. Therein Plintiff stated that

the Merits Systems Protection Board had issued its final decision denying her claims and that her administrative remedies were therefore exhausted.

On December 11, 2009, the court entered an order consolidating Case Nos. 4:07-cv-027 and 4:08-cv-100.

The stay is lifted as Plaintiff has allegedly exhausted her administrative remedies. The undersigned shall hold a scheduling/status teleconference with the parties on April 28, 2009, at 9:00 a.m. The court shall initiate the call. The parties are to submit a joint proposed revised scheduling/discovery plan to the undersigned at least two days prior to the conference.

IT IS SO ORDERED.

Dated this 26th day of March, 2009.

/s/ Charles S. Miller, Jr.
Charles S. Miller, Jr.
United States Magistrate Judge